

Appl. No. 10/722,028
Amdt. dated 1/14/2005
Reply to Office action of 10/15/2004

Amendments to the Drawings:

The attached drawings sheets include changes to Figs. 1 & 2. These sheets replace the original sheets including Figs. 1 & 2.

Attachment: Replacement Sheet

Annotated Sheet Showing Changes

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REMARKS

Based on the above amendments and following remarks, this application is deemed to be in condition for allowance and action to that end is respectfully requested.

Summary of Amendments To Specification, Claims and Drawings

Applicant has amended the specification, claims and drawings to, among other things, more particularly describe and define the Applicant's invention. No new matter has been added.

Response To Claim Rejections - 35 U.S.C. § 103

The Examiner rejected the claims under 35 U.S.C. 103(a) as follows:

- Claims 1-3, 5,7, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mack (US 4800677);
- Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mack in view of Spellman (US 3626899); and
- Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mack in view of Ochi (US 5797347).

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the prior art references (or references when combined)

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must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on an applicant's disclosure in the specification. *See In re Vaack*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Applicant respectfully submits that the cited reference and reference combinations of 1) Mack, 2) Mack in view of Spellman and 3) Mack in view of Ochi, fail to teach or suggest, either expressly or inherently, all the limitations of the claims.

In an exemplary embodiment of Applicant's claimed invention, is defined, in pertinent part, as follows: a pad, comprising: a top sheet; a backing sheet of fluid impervious material; one or more absorbent sheets disposed between the top sheet and the backing sheet; a first frangible element which extends parallel to and partway along opposite sides of one dimension of said pad and a second frangible element located between the edges of said one dimension which extends perpendicular from said first frangible element. The first and second frangible elements form partially detachable ties in said pad when said first and second frangible elements are disengaged from said pad. In further embodiments, the pads are also impregnated with a grass scent, which has proven, when compared to existing pads, to be effective in training an animal to quickly learn to deposit waste outdoors.

On pages 2 and 3 of the Office Action, the Examiner states the following:

Regarding claims 1 and 2, and 9, Mack discloses...a first element 30 which extends parallel and partway along opposite sides of one dimension of the pad 10 and a second element 30 located between the edges of one dimension which extends perpendicular from the first element 30 thereby forming ties (col 2, lines 30-34) integral with said pad 10....

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The Examiner contends that Mack's element 30 is the same as the Applicant's claimed frangible element. However, the Applicant submits that such is not the case. As set forth in the specification, drawings and claims, Applicant's frangible elements are breakable elements formed as part of the pad and may be defined as, e.g., perforations, holes, slits, etc. See, for example, FIGS. 1 and 2, elements 121 and 122.

These frangible elements, only when broken/opened, separate portions of the pad from the body of the pad to form ties which extend from the pad. See, for example, FIGS. 5 and 6, element 120.

Mack's element 30, on the other hand, are pre-existing ties/handles that are attached to the pad along opposite edges of the pad as shown in FIG. 1 of Mack. Mack does not teach the use of frangible elements, let alone frangible elements that form ties when these elements are opened/broken. Neither are the frangible elements disclosed in Spellman and Ochi.

Therefore, because the references, alone and in combination, fail to teach or suggest all the limitations of the claims, that is, neither reference discloses or teaches the Applicant's frangible element, Applicant respectfully submits that the claimed invention distinguishes and is unobvious over the applied prior art under 35 U.S.C. §103. Accordingly, Applicant submits that the grounds for the Examiner's rejections under 35 U.S.C. § 103(a) are overcome and withdrawal thereof is respectfully requested.

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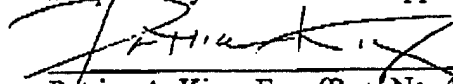
CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance and accordingly, allowance of the application is respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place the case in condition for final allowance, then it is respectfully requested that such amendment or correction be carried out by Examiner's Amendment and the case passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, the Examiner is invited to telephone the undersigned.

The Commissioner is authorized to charge any required fees, including any extension and/or excess claim fees, any additional fees, or credit any overpayment to Deposit Account 06-0923. Applicant claims small entity status. See 37 C.F.R. 1.27.

Respectfully submitted for Applicants,



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